

~~CONFIDENTIAL~~

13 February 1964

MEMORANDUM FOR: Director of Personnel

SUBJECT : Promotion of Individuals with Salary Retention Rights

1. PROBLEM. A policy decision is required for establishing basic steps for repromotions to an intermediate grade of individuals with salary retention rights.

2. COMPTROLLER GENERAL DECISIONS.

a. Comptroller General Decision B-151483, dated 18 June 1963, discussed the case of an individual downgraded two grades to the top scheduled step of that grade with a retained salary of his former grade and step. Upon a one grade promotion, two periodic step increases were added to the salary of the basic step selected at time of downgrade to arrive at his new basic rate. Since his salary already exceeded that of the new basic rate, he was permitted to retain his salary until the end of the retention period. The CG ruled that under Section 507 of the Classification Act of 1949, as amended (Salary Retention Act), upon expiration of the two years the employee's basic rate reverts to the rate computed on the basis of the addition of two PSI's to the basic rate selected at time of downgrade.

b. Comptroller General Decision B-151483, dated 14 January 1964, clarified its previous ruling and states that it was not its "purpose to imply that under the highest previous rate rule, the agency could not have exercised its discretion to grant the maximum rate (top of the grade) at the time of the promotion to take effect upon termination of the retained rate."

3. APPLICATION OF RULINGS TO AGENCY SALARY RETENTION CASES.

a. If the Agency elects to apply the highest previous rate rule at the time of intermediate promotions of individuals with salary retention rights, the basic rate selected will normally be the top step of the grade which will be four or five steps higher than that selected under Section 507 of the Classification Act. This occurs because most of the Agency salary retention cases were downgraded prior to the Salary Reform Act when the highest scheduled rate of the grade to which downgraded was either the 6th or the 7th step. If the highest previous rate rule is applied on each successive one grade promotion, it is possible for an individual to receive a step higher than he would have if he had never been downgraded. Two PSI's added to the basic step under the

SUBJECT: Promotion of Individuals with Salary Retention Rights

Salary Retention Act provisions usually place the individual in the lower or middle steps of the grade.

b. Basic steps on intermediate promotions processed to date have been established by this Agency under the provisions of Section 507 of the Classification Act based upon the 18 June 1963 ruling. One promotion, in effect restoring the individual to his original grade during the salary retention period, was processed under the highest previous rate rule on advice from the CSC prior to this latest CG ruling.

4. ALTERNATIVE POLICIES. This Agency has the following three alternatives:

a. Apply the highest previous rate rule to all promotions during the salary retention period. If individuals downgraded under the provisions of the Salary Retention Act were "demoted through no fault of their own" this application should be made to guarantee the individual the maximum benefit, even though it might result in a higher step than he otherwise would have reached.

b. Apply the provisions of Section 507 of the Classification Act of 1949 to all promotions during the salary retention period. If this Agency uses the Salary Retention Act to downgrade individuals whose performance is marginal or not in line with their grades, this application probably should be adopted. This will result in a step several steps lower than that under Alternative A.

c. Apply the provisions of the Salary Retention Act to all intermediate promotions and the highest previous rate rule to all promotions completely restoring the individual to his original grade. This would normally eliminate the possibility of an individual benefiting from the downgrade. The only loss to the individual would be the time spent in the step from which downgraded since he begins his waiting period for a PSI upon repromotion, according to Comptroller General Decision of 14 January 1964.

5. RECOMMENDATION. To adopt any one of the Alternatives as the only rule to apply to such cases would be mischievous. A would reward the undeserving, and B penalize the deserving. Alternative C normally should be used but we should keep A and B available for use in those instances where reward or penalty is desired. We would expect specific direction from you in such cases. If you agree with this as a policy, please sign and return the original for the files of C/TRB.

CONFIDENTIAL

Chief, Personnel Operations Division

25X1A9a

Attachments

The recommendation in paragraph 5 is approved.

9 MAR 1964

Date